

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**JOE T. SMITH,**

**Plaintiff,**

**V.**

**CIVIL ACTION NO. 2:05-cv-1065-F**

**AMERICAN INTERNATIONAL GROUP, INC.;**  
**et al.,**

et al.,

**Defendants.**

)

**SUPPLEMENT TO DEFENDANTS' MOTION TO CONDUCT REMAND-RELATED  
DISCOVERY**

COME NOW American General Financial Services of Alabama, Inc. (“American General”) (improperly designated as American General Finance Inc. in the complaint), as successor to American General Finance, Inc., American General Finance Corporation, Merit Life Insurance Company, Kimberly Singleton, Pat Porter, and Roy T. Evans (hereinafter collectively referred to as “Defendants”), by and through their undersigned counsel, appearing specially so as to preserve any and all defenses available under Rule 12 of the Federal Rules of Civil procedure, and specifically preserving the right to seek arbitration pursuant to 9 U.S.C. § 1, *et seq.*, and hereby provide the following supplement to Defendants’ motion to conduct remand-related discovery.

Plaintiff commenced the present action on September 28, 2005 by filing a complaint in the Circuit Court of Bullock County, Alabama. On or about November 3, 2005, Defendants removed the present action to this Court on diversity and federal question jurisdiction grounds under 28 U.S.C. § 1331, 1332, and 1441. On or about December 5, 2005, Plaintiff filed a Motion to Remand, arguing against the existence of diversity and federal question jurisdiction. On or about December 29, 2005, Defendants filed a Motion for an Extension of Time to Respond

to Plaintiffs' Motion to Remand for the Purpose of Conducting Remand-Related Discovery ("Motion to Conduct Remand-Related Discovery"). On or about January 5, 2006, Plaintiff filed an Opposition to this Motion to Conduct Remand-Related Discovery. Defendant's Motion to Conduct Remand-Related Discovery remain pending before this Court.

Significantly, on January 25, 2006, in other matters brought by Plaintiff's counsel against these Defendants, Gloria Garret v. American International Group, Inc., et al., Civil Action No. 05-2639-Ma/P; Elmo Thomas v. American International Group, Inc., et al., Civil Action No. 05-2651-Ma/P; and Roosevelt Walton v. American International Group, Inc., et al., Civil Action No. 05-2652-D/P, the Honorable Magistrate Judge Tu M. Pham of the United States District Court for the Western District of Tennessee granted Defendants' motion to compel responses to remand-related discovery. (A copy of Magistrate Judge Pham's order is attached hereto as Exhibit "A").

Similarly, on January 13, 2006, in other matters brought by Plaintiff's counsel against these Defendants, Irby v. American International Group, Inc., et al., Civil Action No. 05-2634; Robertson v. American International Group, Inc., et al., Civil Action No. 05-2635; Mason v. American International Group, Inc., et al., Civil Action No. 05-2636; Sims v. American International Group, Inc., et al., Civil Action No. 05-2637; Trezevant v. American International Group, Inc., et al., Civil Action No. 05-2650; Upshaw v. American International Group, Inc., et al., Civil Action No. 05-2653; Marshall v. American International Group, Inc., et al., Civil Action No. 05-2655; Armstrong v. American International Group, Inc., et al., Civil Action No. 05-2700; and Oliver v. American International Group, Inc., et al., Civil Action No. 05-2701, the Honorable Judge Diane K. Vevesco of the United States District Court for the Western District of Tennessee granted Defendants' motion to compel responses to remand-related discovery. (A

sample copy of the electronic filing notifying the parties of Judge Vevesco's order is attached hereto as Exhibit "B").

Defendants respectfully request that this Court consider the rulings of Judge Pham and Judge Vevesco as persuasive authority and enter a similar order permitting them to conduct the necessary remand-related discovery in the present action.

WHEREFORE, Defendants respectfully request that this Honorable Court grant Defendants' Motion to Conduct Remand-Related Discovery.

Respectfully submitted,

s/ Matthew T. Mitchell

Robert H. Rutherford (RUT002)

David A. Elliott (ELL027)

Matthew T. Mitchell (MIT050)

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**OF COUNSEL**

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 7, 2006, I electronically filed the foregoing Supplement to Defendants' Motion for an Extension of Time to Respond to Plaintiffs' Motion to Remand for the Purpose of Conducting Remand-Related Discovery with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following: Jere L. Beasley, Thomas J. Methvin, C. Lance Gould, Thomas Julian Butler, David A. Elliott, Robert H. Rutherford, Jeffrey M. Grantham, and John Thomas Aquina Malatesta.

s/ Matthew T. Mitchell  
OF COUNSEL